

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LAWRENCE W. HAMMARE,

Plaintiff,

V.

Civil Action No. 05-30155 MAP

THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA, and
T-MOBILE USA, INC.,

Defendants.

**MOTION FOR JUDGMENT ON THE PLEADINGS OF DEFENDANT
THE PRUDENTIAL INSURANCE COMPANY OF AMERICA**

Pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, defendant The Prudential Insurance Company of America (“Prudential”), hereby moves for judgment on the pleadings as to the claim made by the plaintiff against Prudential.

In support of this motion, Prudential states that there are no material facts in dispute and that the dispute can be resolved on both the pleadings and those facts of which the Court can take judicial notice. The pleadings and related documents demonstrate that the plaintiff cannot recover against Prudential because Prudential is merely the third party claim administrator for the ERISA-regulated benefit plan at issue. Prudential does not insure the plan's benefits, rather, it performs ministerial functions and makes recommendations to the plan administrator respecting plan administration.

In further support of this motion, Prudential relies on its memorandum of law filed herewith in accordance with Local Rule 7.1(B)(1).

REQUEST FOR HEARING

Pursuant to Local Rule 7.1(D), Prudential hereby requests a oral argument on this motion.

Respectfully submitted,

THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA,
By its attorney,



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Date: September 20, 2005

CERTIFICATE OF SERVICE

I certify that on this 20th day of September, 2005 I served a copy of the above document on counsel of record, as set forth below, by electronic filing and by first class mail, postage prepaid.

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/s/ Edward P. O'Leary
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